



UNIVERSITY OF  
**TORONTO**  
FACULTY OF LAW



## **LAW AND THE HOLOCAUST**

**Course Materials  
FALL 2007**

**Instructor: Ms Kristen Rundle**

**Faculty of Law  
University of Toronto**

**\*\*\* These materials are for the sole use of students at the  
Faculty of Law, University of Toronto**

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# LAW AND THE HOLOCAUST

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2. Saul Friedlander, "From Anti-Semitism to Extermination: An Historiographical Study of Nazi Policies Toward the Jews and an Essay in Interpretations", 16 <i>Yad Vashem Studies</i> 1 (1984).	11
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2. Ingo Muller, 'The People's Court', Chapter 17 in *Hitler's Justice*, (Harvard University Press, 1991), pp. 140-152

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2. Ingo Muller, 'Coming to Terms with the Past', Chapter 24 in *Hitler's Justice*, (Harvard University Press, 1991), pp. 219-230

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2. David Luban, Alan Strudler and David Wasserman, "Moral Responsibility in the Age of Bureaucracy", 90 *Michigan Law Review* 2348 (1990).
3. Hannah Arendt, *Eichmann in Jerusalem*, (Penguin Books, 1964 Revised ed.), pp. 287-290.

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